

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**DYSON TECHNOLOGY LIMITED
and DYSON, INC.,**

Plaintiffs,

v.

MAYTAG CORPORATION,

Defendant.

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)
) **Civil Action No. 05-434-GMS**
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)
)

**MOTION FOR LETTERS OF REQUEST TO THE JUDICIAL AUTHORITY
IN GERMANY**

TO THE HONORABLE COURT:

NOW APPEARS Maytag Corporation ("Maytag"), through its undersigned counsel, respectfully moves this court to issue a letter of Request directed to the appropriate judicial authority in Germany, the Federal State of Saxony, Saxonian Ministry of Justice, Archivstra Be1, 66199 Dresden, for the production of documents from SLG Pruf-und Zerifizeierungs ("SLG"). This application is made pursuant to, and in conformity with, The Hague Convention on the Taking of Evidence in Civil or Commercial Matters, T.I.A.S. 7444, 23 Z.U.S.T. 2555, reprinted in 28 U.S.C.A. § 1781 (the "Hague Evidence Convention"), which is in force between the United States and the United Kingdom.

Counsel for Maytag has conferred with counsel for Dyson Technology Limited and Dyson, Inc. ("Dyson") and the parties have not been able to reach an agreement. Dyson has expressly reserved all other rights with respect to the requests.

In support of this Motion, Maytag states as follows:

1. As the Court is aware, Maytag seeks an injunction and damages against Dyson related to the packaging and advertising of certain models of its upright vacuum cleaners. Maytag claims that Dyson, through various marketing campaigns, has made false and misleading statements as to the suction power, cleaning efficiency, and design and performance capabilities of certain models of its upright vacuums.

2. Maytag seeks the aid of this Court in obtaining the evidence of one advertising company. It is believed that this entity has documents in its control that are relevant to the issues at hand. SLG has done work for or on behalf of Dyson in connection with its upright vacuums.

3. This Court has previously allowed foreign discovery under 28 U.S.C. § 1781 following a showing of the necessity of the discovery. *See Tulip Computers Int'l B.V. v. Dell Computers Corp.*, 254 F.Supp.2d 469, 474 (D. Del. 2003) (relating to foreign discovery pursuant to Hague Evidence Convention).

4. SLG has been identified by Dyson in its Initial Disclosures as a person with knowledge about the facts of the case.

5. Maytag believes that the documents requested will be critical to proving the allegations it has proffered in these proceedings in that they will show that Dyson's packaging and advertising claims are false and misleading.

THEREFORE, MAYTAG RESPECTFULLY REQUESTS:

- A. That the Court issue, and cause to be certified by the Clerk of the U.S. District Court for District of Delaware, Letters of Request addressed to the "Appropriate Judicial Authority in Germany," Federal State of Saxony in the Saxonian Ministry of Justice Archivstra Be1, 66199 Dresden.

- B. That said Letters of Request be issued in the form attached herewith requesting the summoning SLG by said Germany's proper and usual process for summoning of production of documents.

Respectfully submitted,

/s/ Francis DiGiovanni

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Attorneys for Maytag Corporation

Dated: August 31, 2006

CERTIFICATE OF SERVICE

I, Francis DiGiovanni, hereby certify that on August 31, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

C. Barr Flinn
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I further certify that on August 31, 2006, I caused a copy of the foregoing document to be served by hand delivery and email on the above-listed counsel of record, and by U.S. Mail and email on the following counsel of record:

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